

**County Of San Diego
Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)
Key Words: privacy, copy, fees**

**SUBJECT: Clerical & Copy Fees for Protected
Health Information**

**NO: HHSa-L-20
PAGE: 1 of 3
DATE: July 27, 2007**

**REFERENCE: Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160
and 164.**

PURPOSE: To outline the fee schedule that applies to requests from individuals (patients/residents/clients), their legal representatives, and other external requesters to access or obtain copies of protected health information in designated record sets.

BACKGROUND: County agencies designated, as healthcare components must comply with privacy regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). They must also comply with California laws and regulations pertaining to the use and disclosure of individually identifiable health information, unless such state laws and regulations are preempted by HIPAA.

HIPAA's privacy regulations outline many detailed requirements protecting the confidentiality of health information and providing individuals significant rights with respect to their health information. Compliance with these regulations is addressed in a series of County policies and procedures.

DEFINITIONS

Note: The definitions below are in compliance with HIPAA and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).

Designated Record Set:

County as Health Care Provider: Records maintained by or for the County that are used, in whole or in part, by or for the County to make decisions about individuals. This designated record set includes:

- Patient/resident/client medical records, including images (e.g. radiology films, fetal monitor strips, electrocardiograph (EKG) tracings, electroencephalograph (EEG) tracings, imaged records of procedures, and the like); and
- Patient/resident/client billing records.

The designated record set **excludes** other information compiled by the County for non-patient care purposes, including but not limited to information compiled for peer review, quality assurance, and business operations that is not used to make decisions about individuals.

Individually Identifiable Health Information: Information that identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County;
- Relates to the past, present, or future physical or mental health or condition of an individual;

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- Relates to the provision of health care to an individual; or
- Relates to the past, present, or future payment for the provision of health care to an individual.

This includes demographic information (such as name, address, date of birth, sex, and race) collected from an individual.

Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained electronically or by any other medium. PHI does not include educational records of students maintained by federally funded educational agencies or institutions or persons acting for these agencies or institutions. PHI also does not include records of (1) students who are 18 years or older or are attending post-secondary educational institutions, (2) maintained by a physical or mental health care provider, (3) that are made, maintained, or used only in connection with the treatment of the student, and (4) that are not available to anyone, except a health care provider or appropriate professional reviewing the record as designated by the student.

POLICY: In compliance with state and federal law and regulation, the County will charge a reasonable, cost-based fee to individuals and their legal representatives to cover the cost of copying protected health information, postage, or preparing a summary of the information. Fees will also be charged to other outside requesters.

There is no charge for individuals and their legal representatives to review PHI without obtaining copies. There is no charge for copies sent to other healthcare providers for treatment purposes.

The County's approved fee schedule must be followed by all County facilities, programs, or units that handle external disclosures of PHI.

PROCEDURES:

1. Waiver of Fees for Patients with Economic Need

An individual who does not have the ability to pay may be given copies of records in the designated record set without charge upon providing proof of economic need. Such proof may include, but is not limited to participation in the state Medi-Cal or charity care programs.

The manager of the facility, program, or unit releasing the information or designee may make this determination, based on information provided by the individual or his legal representative.

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An individual will be entitled to a copy, at no charge, of the relevant portion of his or her medical record, upon presenting to the provider a written request and proof that the records are needed to support an appeal regarding eligibility for a public benefit program (e.g., Medi-Cal, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits).

2. Pre-Payment

Facilities, program, or units may establish their own criteria for requesters who are required to pay retrieval and copy fees prior to obtaining the requested information.

QUESTIONS/INFORMATION: Privacy Officer of the County of San Diego

SUNSET DATE: This policy will be reviewed for continuance by July 27, 2010.

Approved: 
Jean M. Shepard, Director
Health and Human Services Agency